

City of Willoughby Hills

ORDINANCE NO. 2018-35

AN ORDINANCE CONFIRMING THE APPOINTMENT OF JOSEPH W. DIEMERT, JR. AS DIRECTOR OF LAW, ALONG WITH HIS ASSISTANTS, DEFINING THE DUTIES AND RESPONSIBILITIES, AND FIXING THE SALARY AND COMPENSATION FOR SAID POSITION; REPEALING CONFLICTING LEGISLATION, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Section 2.21 and 4.31 of the Charter, the Mayor has appointed Joseph W. Diemert, Jr. as Director of Law for the City of Willoughby Hills, and has approved three (3) of his associates as Assistants to the Director of Law, Thomas M. Hanculak, Mark V. Guidetti and Brinton J. Resto; and

WHEREAS, pursuant to Section 2.21 of the Charter, such appointment is subject to confirmation by an affirmative vote of four (4) or more Members of Council; and

WHEREAS, the duties, responsibilities, and compensation for said position are more fully described hereinafter.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, AND STATE OF OHIO THAT:

SECTION 1. CONFIRMATION.

Joseph W. Diemert, Jr. is hereby, and herein, confirmed as the Director of Law for the City of Willoughby Hills, and shall have such assistants as is approved by the Mayor.

SECTION 2. DUTIES AND RESPONSIBILITIES OF THE LAW DEPARTMENT.

Pursuant to the Charter, the Director of Law and his assistants shall serve the Mayor, the Council, the Administrative Departments and Officers, Boards and Commissions of the Municipality as legal counsel in connection with all Municipal affairs and shall represent the Municipality in all proceedings in Court and before any Administrative Boards. More specifically, the Law Director and his assistants shall:

- a. Attend all Council regular meetings, research and draft all legislation;
- b. Be available twenty-four (24) hours a day, seven (7) days a week, for any emergency or necessary calls from the Mayor or any department, relative to the performance of their duties;
- c. Research and provide all routine legal opinions and advice to the Mayor and Council, and to all the departments within the City;
- d. Review all routine contracts, leases, easements and commitments on behalf of the City;
- e. Keep the Mayor, Council and departments and employees current with reference to all federal and state laws impacting the services provided to the City of Willoughby Hill's citizens and businesses, including, but not limited to, the American's with Disabilities Act requirements, Family and Medical Leave Act requirements, equal employment opportunity and civil rights requirements, Fair Labor Standards Act requirements, Ohio collective bargaining law, and any other newly enacted obligations of the Municipality as an employer; and
- f. Supervise and direct all legal requirements relative to purchasing, public bidding, public assessment and/or appropriations as needed.

SECTION 3. RETAINER COMPENSATION.

For basic and routine services set forth in Section 1 hereof, unless same is set forth in Section 4 hereof as hourly compensation, the retainer compensation shall be Four Thousand Dollars (\$4,000.00) per month payable to Diemert and Associates Co. L.P.A., on or about the first (1st) of each month for the month thereafter, or as is convenient for the Finance Department. Such retainer compensation shall not be considered employee pay for purposes of OPERS or any other employee benefits paid by the City. There shall be no tax withholdings or deductions from the monthly retainer compensation.

SECTION 4. HOURLY COMPENSATION.

Given the unpredictable nature of some legal requirements needed by the Mayor, Council and departments, an hourly wage for services rendered by the Law Department is more reasonable and appropriate and fair to the parties. Therefore, as supplemental compensation for the Director of Law and his assistants for non-routine, extraordinary or unusual research, projects or legal services there is hereby and herein provided an hourly compensation of One Hundred Fifty Dollars (\$150.00) per hour. Such supplemental compensation shall be in addition to the retainer services referred to in Section 3, shall be invoiced by the Law Department at the end of each month for the preceding month, and shall not be subject to OPERS or any other withholding.

Such supplemental hourly compensation shall include, but not be limited to, the following examples:

- a. Any and all litigation matters in which the City is a participant in any manner whatsoever;
- b. Any and all hearings or appearances on behalf of the City before any State, County or local administrative boards and tribunals;
- c. Representation of the City in the prosecution of criminal and traffic cases in the Willoughby Hills Mayor's Court, Willoughby Municipal Court, or any courts of appeal;
- d. Special meetings of Council, meetings of Planning Commission, Civil Service Commission, Zoning Board of Appeals, or any committees or special commissions requesting the presence of the Law Department;
- e. Unique or unusual research projects, preparation and supervision of the construction and financing of any improvements within the City, major revisions or supplements to the Codified Ordinances; and
- f. Labor negotiations, grievances and discipline matters with any City employees.

SECTION 5. EXPENSES.

The Law Department shall be reimbursed for any out-of-pocket expenses such as filing fees, depositions, transcripts, or transportation and accommodations outside Northeast Ohio. Same shall be detailed and included in monthly invoices to the City.

The Law Department shall NOT be reimbursed for any benefits to the Director of Law or his Associate assistants, paralegals, or administrative staff; shall NOT be reimbursed for any of the Director of Law's employees' compensation, vacations, sick leave or other benefits if employed by Diemert and Associates Co., L.P.A. The Director of Law shall be responsible for his own and his assistants' expenses relative to health insurance, malpractice, continuing legal education costs, communication equipment, office space, utilities, computer equipment, research technology, legal support services, transportation costs, copying, stationery, postage, or any other such normal and daily costs relative to the providing of legal services and advice to the City of Willoughby Hills.

SECTION 6. REVISIONS.

Given the Director of Law's unfamiliarity with the specific legal issues, requirements, and necessities within the City of Willoughby Hills and its daily operations, it is understood that the Director of Law and the Mayor and Council will review the details of this Ordinance in or around January 2019 in order to examine the fairness of the details herein as to each of the parties.

SECTION 7. All previously adopted Ordinances or Codes, or any parts thereof, which are in conflict with the provisions of this Ordinance be, and same are hereby repealed as of the effective date of this Ordinance.

SECTION 8. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were held in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 9. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills in so far as it provides for the usual daily operations of a municipal department and further provides for the appointment, salary and compensation of the Director of Law.

WHEREFORE, this Ordinance shall be in full force and effect from and after its adoption by the majority members of Council, and signature by the Mayor, or at the earliest time provided for by law.

PASSED: _____, 2018

Nancy E. Fellows
President of Council

Submitted to the Mayor for his Approval on this
_____ day of _____, 2018

Approved by the Mayor
_____, 2018

ATTEST:

Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Mayor

Accepted and Approved by:

Diemert & Associates, Co., L.P.A.

By: _____ Date: _____
Joseph W. Diemert, Jr.